

AN ACT

relating to the expunction of arrest records and files for certain persons and to the return of certain fees to a person whose criminal record has been expunged; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (c) and subject to Subsection (b-1), a district court, a justice court, or a municipal court of record may expunge all records and files relating to the arrest of a person [~~who has been arrested for commission of a felony or misdemeanor~~] under the procedure established under Article 55.02 if:

(1) the person is:

(A) tried for the offense for which the person was arrested;

(B) convicted of the offense; and

(C) acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the [~~appropriate district~~]

1 court before the person is tried for the offense, regardless of
2 whether an indictment or information has been presented against the
3 person in relation to the offense.

4 (b-1) A justice court or a municipal court of record may
5 only expunge records and files under Subsection (b) that relate to
6 the arrest of a person for an offense punishable by fine only.

7 SECTION 2. Section 1, Article 55.02, Code of Criminal
8 Procedure, is amended to read as follows:

9 Sec. 1. At the request of the acquitted person [~~defendant~~]
10 and after notice to the state, or at the request of the attorney for
11 the state with the consent of the acquitted person, the trial court
12 presiding over the case in which the person [~~defendant~~] was
13 acquitted, if the trial court is a district court, a justice court,
14 or a municipal court of record, or a district court in the county in
15 which the trial court is located shall enter an order of expunction
16 for a person entitled to expunction under Article 55.01(a)(1)(A)
17 not later than the 30th day after the date of the acquittal. On
18 [Upon] acquittal, the trial court shall advise the acquitted person
19 [~~defendant~~] of the right to expunction. The party requesting the
20 order of expunction [~~defendant~~] shall provide to the [~~district~~]
21 court all of the information required in a petition for expunction
22 under Section 2(b). The attorney for the acquitted person
23 [~~defendant~~] in the case in which the person [~~defendant~~] was
24 acquitted, if the person [~~defendant~~] was represented by counsel, or
25 the attorney for the state, if the person [~~defendant~~] was not
26 represented by counsel or if the attorney for the state requested
27 the order of expunction, shall prepare the order for the court's

1 signature.

2 SECTION 3. Section 1a(a), Article 55.02, Code of Criminal
3 Procedure, is amended to read as follows:

4 (a) The trial court presiding over a case in which a person
5 [~~defendant~~] is convicted and subsequently granted relief or
6 pardoned on the basis of actual innocence of the offense of which
7 the person [~~defendant~~] was convicted, if the trial court is a
8 district court, a justice court, or a municipal court of record, or
9 a district court in the county in which the trial court is located
10 shall enter an order of expunction for a person entitled to
11 expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th
12 day after the date the court receives notice of the pardon or other
13 grant of relief. The person shall provide to the [~~district~~] court
14 all of the information required in a petition for expunction under
15 Section 2(b).

16 SECTION 4. Section 2, Article 55.02, Code of Criminal
17 Procedure, is amended by amending Subsections (a) and (b) and
18 adding Subsection (a-1) to read as follows:

19 (a) A person who is entitled to expunction of records and
20 files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), or
21 55.01(a)(2) or a person who is eligible for expunction of records
22 and files under Article 55.01(b) may file an ex parte petition for
23 expunction in a district court for the county in which:

24 (1) the petitioner was arrested; or

25 (2) the offense was alleged to have occurred.

26 (a-1) If the arrest for which expunction is sought is for an
27 offense punishable by fine only, a person who is entitled to

1 expunction of records and files under Article 55.01(a) or a person
2 who is eligible for expunction of records and files under Article
3 55.01(b) may file an ex parte petition for expunction in a justice
4 court or a municipal court of record in the county in which:

5 (1) the petitioner was arrested; or

6 (2) the offense was alleged to have occurred.

7 (b) A [The] petition filed under Subsection (a) or (a-1)
8 must be verified and must include the following or an explanation
9 for why one or more of the following is not included:

10 (1) the petitioner's:

11 (A) full name;

12 (B) sex;

13 (C) race;

14 (D) date of birth;

15 (E) driver's license number;

16 (F) social security number; and

17 (G) address at the time of the arrest;

18 (2) the offense charged against the petitioner;

19 (3) the date the offense charged against the
20 petitioner was alleged to have been committed;

21 (4) the date the petitioner was arrested;

22 (5) the name of the county where the petitioner was
23 arrested and if the arrest occurred in a municipality, the name of
24 the municipality;

25 (6) the name of the agency that arrested the
26 petitioner;

27 (7) the case number and court of offense; and

1 (8) together with the applicable physical or e-mail
2 addresses, a list of all:

3 (A) law enforcement agencies, jails or other
4 detention facilities, magistrates, courts, prosecuting attorneys,
5 correctional facilities, central state depositories of criminal
6 records, and other officials or agencies or other entities of this
7 state or of any political subdivision of this state;

8 (B) central federal depositories of criminal
9 records that the petitioner has reason to believe have records or
10 files that are subject to expunction; and

11 (C) private entities that compile and
12 disseminate for compensation criminal history record information
13 that the petitioner has reason to believe have information related
14 to records or files that are subject to expunction.

15 SECTION 5. Article 102.006, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In
18 addition to any other fees required by other law and except as
19 provided by Subsection (b), a petitioner seeking expunction of a
20 criminal record in a district court shall pay the following fees:

21 (1) the fee charged for filing an ex parte petition in
22 a civil action in district court;

23 (2) \$1 plus postage for each certified mailing of
24 notice of the hearing date; and

25 (3) \$2 plus postage for each certified mailing of
26 certified copies of an order of expunction.

27 (a-1) In addition to any other fees required by other law

1 and except as provided by Subsection (b), a petitioner seeking
2 expunction of a criminal record in a justice court or a municipal
3 court of record under Chapter 55 shall pay a fee of \$100 for filing
4 an ex parte petition for expunction to defray the cost of notifying
5 state agencies of orders of expunction under that chapter.

6 (b) The fees under Subsection (a) or the fee under
7 Subsection (a-1), as applicable, shall be waived if:

8 (1) the petitioner seeks expunction of a criminal
9 record that relates to an arrest for an offense of which the person
10 was acquitted, other than an acquittal for an offense described by
11 Article 55.01(c); and

12 (2) the petition for expunction is filed not later
13 than the 30th day after the date of the acquittal.

14 (c) A court that grants a petition for expunction of a
15 criminal record may order that any fee, or portion of a fee,
16 required to be paid under Subsection (a) be returned to the
17 petitioner.

18 SECTION 6. Section 27.031, Government Code, is amended by
19 adding Subsection (e) to read as follows:

20 (e) A justice court has concurrent jurisdiction with a
21 district court and a municipal court of record over expunction
22 proceedings relating to the arrest of a person for an offense
23 punishable by fine only.

24 SECTION 7. Section 30.00005, Government Code, is amended by
25 adding Subsection (e) to read as follows:

26 (e) The court has concurrent jurisdiction with a district
27 court and a justice court over expunction proceedings relating to

1 the arrest of a person for an offense punishable by fine only.

2 SECTION 8. Subchapter B, Chapter 103, Government Code, is
3 amended by adding Section 103.02101 to read as follows:

4 Sec. 103.02101. ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES:
5 CODE OF CRIMINAL PROCEDURE. A petitioner filing an ex parte
6 petition for expunction in a justice court or a municipal court of
7 record shall pay a fee under Article 102.006, Code of Criminal
8 Procedure, of \$100 to defray the costs of notifying state agencies
9 of orders of expunction.

10 SECTION 9. Section 202.001(b), Local Government Code, is
11 amended to read as follows:

12 (b) The following records may be destroyed without meeting
13 the conditions of Subsection (a):

14 (1) records the destruction or obliteration of which
15 is directed by an expunction order issued by a [~~district~~] court
16 pursuant to state law; and

17 (2) records defined as exempt from scheduling or
18 filing requirements by rules adopted by the commission or listed as
19 exempt in a records retention schedule issued by the commission.

20 SECTION 10. (a) Except as otherwise provided by this
21 section, this Act applies to an expunction of records and files
22 relating to any criminal offense that occurred before, on, or after
23 the effective date of this Act.

24 (b) Section 1, Article 55.02, Code of Criminal Procedure, as
25 amended by this Act, applies only to the expunction of arrest
26 records and files related to a criminal offense for which the trial
27 of the offense begins on or after the effective date of this Act.

1 The expunction of arrest records and files under Section 1, Article
2 55.02, Code of Criminal Procedure, related to a criminal offense
3 for which the trial of the offense begins before the effective date
4 of this Act is governed by the law in effect on the date the trial
5 begins, and the former law is continued in effect for that purpose.

6 (c) Article 102.006(c), Code of Criminal Procedure, as
7 added by this Act, applies only to a petition for expunction filed
8 on or after the effective date of this Act. A petition for
9 expunction filed before the effective date of this Act is governed
10 by the law in effect on the date the petition was filed, and the
11 former law is continued in effect for that purpose.

12 SECTION 11. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 557 was passed by the House on May 5, 2017, by the following vote: Yeas 147, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 557 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 557 on May 28, 2017, by the following vote: Yeas 139, Nays 8, 2 present, not voting.

Chief Clerk of the House

H.B. No. 557

I certify that H.B. No. 557 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 557 on May 28, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor